

BEFORE THE  
DISTRICT OF COLUMBIA ZONING COMMISSION



**ELM GARDENS APARTMENTS**

**CONSOLIDATED PLANNED UNIT  
DEVELOPMENT and  
RELATED MAP AMENDMENT TO  
THE RA-2 DISTRICT**

7050 EASTERN AVENUE, N.W.  
Square 3351, Lot 813

**STATEMENT OF THE APPLICANT**

The NHP Foundation and  
Elm Gardens Owner, LLC

August 24, 2023

BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION

APPLICATION OF  
THE NHP FOUNDATION AND ELM GARDENS OWNERS LLC

FOR A

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AND RELATED MAP AMENDMENT TO THE RA-2 DISTRICT**

**7050 EASTERN AVENUE, N.W.  
SQUARE 3351 LOT 813**

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Submitted by:

The Brown Law Firm PLLC  
1750 K Street, N.W., 12<sup>th</sup> Floor  
Washington, D.C. 20006  
Mary Carolyn Brown  
*Counsel for the Applicants*

August 24, 2023

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**DEVELOPMENT TEAM**

**APPLICANT**

THE NHP FOUNDATION  
1090 VERMONT AVE NW, STE 400  
WASHINGTON, DC 20005

**OWNER**

ELM GARDENS OWNERS, LLC  
7050 EASTERN AVE NW  
WASHINGTON, DC 20012

**ARCHITECT**

SOTO ARCHITECTURE AND URBAN DESIGN, PLLC  
1348 T ST NW  
WASHINGTON, DC 20009

**LANDSCAPE ARCHITECT**

BOWMAN ENGINEERING SERVICES  
888 17<sup>TH</sup> STREET NW, SUITE 510  
WASHINGTON, DC 20006

**CIVIL ENGINEER**

BOWMAN ENGINEERING SERVICES  
888 17<sup>TH</sup> STREET NW, SUITE 510  
WASHINGTON, DC 20006

**TRANSPORTATION  
CONSULTANT**

GOROVE-SLADE ASSOCIATES, INC.  
1140 CONNECTICUT AVE NW, SUITE 1010  
WASHINGTON, DC 20036

**LEGAL COUNSEL**

THE BROWN LAW FIRM PLLC  
1750 K STREET NW, 12<sup>TH</sup> FLOOR  
WASHINGTON, DC 20006

**LIST OF EXHIBITS**

<b>EXHIBIT A</b>	APPLICATION FORMS AND AUTHORIZATION LETTER
<b>EXHIBIT B</b>	NOTICE OF INTENT TO SURROUNDING PROPERTY OWNERS AND CERTIFICATE OF NOTICE
<b>EXHIBIT C</b>	COMPLIANCE WITH CONSOLIDATED PUD REQUIREMENTS
<b>EXHIBIT D</b>	LIST OF PUBLICLY AVAILABLE INFORMATION AND MAPS
<b>EXHIBIT E</b>	COPIES OF THE HPRB STAFF REPORTS
<b>EXHIBIT F</b>	ANALYSIS OF COMPREHENSIVE PLAN CONSISTENCY
<b>EXHIBIT G</b>	SURVEYOR'S PLAT
<b>EXHIBIT H</b>	ARCHITECTURAL DRAWINGS AND ELEVATIONS, AND PHOTOGRAPHS OF THE PROPERTY AND SURROUNDING AREA

## I. INTRODUCTION

### A. Overview of the Proposal

The NHP Foundation and Elm Gardens Owner, LLC (collectively, the “**Applicant**”), submit this statement to the D.C. Zoning Commission (“**Commission**”) in support of their application for a consolidated planned unit development (“**PUD**”) and related Zoning Map amendment from the RA-1 and MU-4 Districts to the RA-2 District for the property at 7050 Eastern Avenue, N.W., known as Lot 813 in Square 3351 (“**Property**” or “**PUD Site**”). The Property is located in Ward 4 of the District and falls within the boundaries of Advisory Neighborhood Commission (“**ANC**”) 4B. The PUD and related map amendment will allow the Applicant to increase the amount of permanent affordable housing in the District by replacing the existing 36-unit apartment building with a new residential building with approximately 80 units for households earning between 30 and 80 percent of the median family income (“**MFI**”) for the Washington metropolitan area (“**Project**”). The Project will be developed with approximately 61,850 square feet of gross floor area (“**GAR**”), equating to a floor area ratio (“**FAR**”) of approximately 2.32, using bonus density under the inclusionary zoning and PUD regulations. The building footprint will occupy approximately 16,010 square feet of the Property, or approximately 60 percent, as permitted in the RA-2 District. The overall height of the building will be approximately 40 feet and four stories, with a habitable penthouse at approximately 11 feet in height and a mechanical penthouse not exceeding 15 feet in height. The all-affordable apartment building is the primary superior benefit of the PUD, which is directly encouraged by the PUD regulations and the Comprehensive Plan for the District of Columbia in order to address one of the most critical and urgent needs of the city.

The application is submitted pursuant to Subtitle X, Chapter 3 and Subtitle Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“**Zoning Regulations**”). The Comprehensive Plan Future Land Use Map (“**FLUM**”) designates the Property for moderate-density uses, and the site immediately abuts the medium-density residential and low-density commercial designations on the FLUM. The requested Zoning Map amendment to the RA-2 District is consistent with the Moderate Residential Density category and numerous other policies in the Comprehensive Plan advancing the production of housing and affordable housing, particularly in proximity to Metrorail stations.

The Property is located in the Neighborhood Conservation Area on the Generalized Policy Map of the Comprehensive Plan, and immediately abuts the Neighborhood Enhancement Area. The Property is also within the boundaries of and governed by the Takoma Central District Plan, approved by the Council as a small area plan in 2002. Finally, the Property is located in the Takoma Park Historic District and subject to design review by the Historic Preservation Review Board (“**HPRB**”).

### B. Background on the Applicant

The NHP Foundation (“**NHPF**”) is a 501(c)(3) not-for-profit real estate corporation dedicated to the preservation of affordable housing. Since its founding in 1989, it has invested

nearly \$3 billion in housing for low-income households resulting in economic stability for thousands of seniors, families, and children. Through partnerships with major financial institutions, the public sector, faith-based initiatives, and other not-for profit organizations, NHPF has over 56 properties comprised of more than 10,000 units in 16 states and the District of Columbia. Among its many strategies, NHPF partners with tenant associations to leverage the rights of tenants in affordable rental buildings under the District’s Tenant Opportunity to Purchase Act (“**TOPA**”) to preserve housing that is at risk of conversion to luxury apartments or condominium units. NHPF also offers on-site housing assistance that engages with families experiencing poverty and other hardships to address barriers to successful outcomes. Elm Gardens Owner, LLC (“**EGA**”) is the NHPF entity that the Elm Gardens Tenants Association, Inc. (“**EGTA**”) assigned its TOPA rights to effectuate the acquisition of the Property from an unrelated third party.

EGTA was formed in 2021 to exercise its TOPA rights to match a contract to purchase the existing 36-unit apartment building on the Property when the seller accepted a third-party offer to sell the Property. TOPA affords tenants unique rights to assume control over their housing circumstances, with adequate time to negotiate a fair contract, secure financing, and complete the purchase of the Property if they so choose. It also allows tenants to assign or sell their rights to a third-party. (*See* D.C. Official Code § 43-3404.06). Here, EGTA elected to assign their rights to NHPF, which intends to replace the existing structure with a new apartment building dedicated to affordable housing. Existing tenants would be temporarily relocated with the right to return to the new building upon completion, as described in greater detail below. Our shared vision with EGTA is to redevelop the Property so that they, and other families and individuals like them, can live affordably in an attractive, amenity-rich home near Metrorail, grocery stores, retail shops, community schools, recreation, and more.

NHPF has successfully developed several all-affordable buildings in the District under TOPA, increasing or preserving affordable housing units in the District, and significantly improving the quality of housing options for low-income residents. These TOPA projects include Takoma Place Apartments, Anacostia Gardens, Woodmont Crossing Apartments, Parkchester Apartments, Benning Heights Apartments, and Ridgecrest Apartments (in progress). In addition to many other affordable housing projects, NHPF has developed affordable housing with partners throughout the city, including the Washington Metropolitan Community Development Corp., Vision of Victory CDC, Donahue Peebles, and The Warrenton Group. NHPF proposes to replicate this successful TOPA model at this Property.

## **II. THE PUD SITE**

### **A. Location and Existing Conditions**

The Property is located in the District’s Takoma neighborhood along the west side of Eastern Avenue, N.W., the District’s boundary line with Montgomery County, Maryland. Piney Branch Avenue, N.W., is to the northwest and Cedar Street, N.W., is to the southeast. The Property is long and narrow, measuring approximately 75 feet wide on Eastern Avenue with a depth of approximately 350 feet. The otherwise rectangular lot bends in a southwesterly

direction beginning at a depth of 125 feet, as shown on the site plan. The rear (west) lot line abuts the concrete wall and elevated Metrorail tracks immediately north of the Takoma Park station. The Property has a total land area of 26,682 square feet. The grade slopes downward approximately five feet along Eastern Avenue between the two side lot lines.

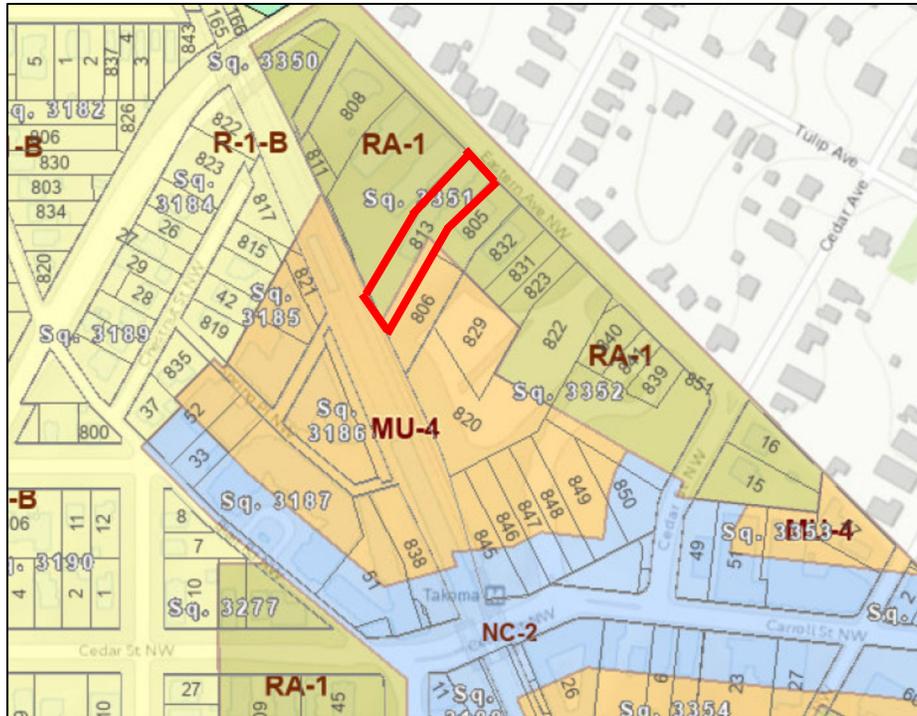


Figure 1: Zoning Map showing Subject Property outlined in red

The Property is currently improved with the Elm Gardens Apartments, a 36-unit residential building constructed in 1966. It is one of five low- to mid-rise apartment buildings along Eastern Avenue constructed in the early 1960s, as shown in the photograph below. All of these buildings are located in the Takoma Park Historic District, but none contribute to its character because they post-date the period of significance, which spans from 1883 to 1940.

## **B. Surrounding Area**

The surrounding neighborhood is characterized by a mix of uses. Across Eastern Avenue, N.W., in Montgomery County, Maryland, are single-family detached dwellings. The Takoma Park Metrorail Station is located immediately behind the Property and to the south. The commercial corridor of the Takoma Park neighborhood is to the south along Carroll Avenue., N.W. To the west, across the Metrorail tracks are other mid-rise apartment buildings and commercial buildings. The topography slopes significantly by approximately 40 feet from a high point at Piney Branch Road, N.W., to the north to Carroll Street, N.W., to the south, creating a stepped effect for buildings along Eastern Avenue, N.W.

## C. Zoning

### 1. Existing Zoning

Currently the Property is split-zoned in the RA-1 and MU-4 Districts. Approximately 22,382 square feet of the land is located in the RA-1 District and 4,300 square feet is zoned MU-4. The RA Districts are designed for areas identified as moderate- or high-density residential areas suitable for multi-unit buildings. 11-F DCMR § 100.2. The purposes of the RA Districts are to:

- (a) Provide for the orderly development and use of land and structures in areas characterized by predominantly moderate- to high-density residential uses;
- (b) Permit flexibility by allowing all types of residential development;
- (c) Promote stable residential areas while permitting a variety of types of urban residential neighborhoods;
- (d) Promote a walkable living environment;
- (e) Allow limited non-residential uses that are compatible with adjoining residential uses;
- (f) Encourage compatibility between the location of new buildings or construction and the existing neighborhood; and
- (g) Ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces.

### 11-F DCMR § 100.3.

The RA-1 District is designed for areas predominantly developed with low- to moderate-density developments, including detached dwellings, rowhouses, and low-rise apartments. It permits flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts. The RA-1 District also allows for the construction of certain institutional and semi-public buildings that would be compatible with adjoining residential uses that are restricted from the more restrictive residential zones. 11-F DCMR § 300.

Buildings in the RA-1 District may be constructed to a maximum height of 40 feet and three stories, with a maximum density of 1.08 FAR under the Inclusionary Zoning (“IZ”) provisions, and up to 40 percent lot coverage. Penthouses may be constructed to a height of 12 feet. 11-F DCMR §§ 300.4, 302, 303 and 304; 11-C DCMR § 1501.

The MU-4 District is designed to provide facilities for housing, shopping, and business needs, including residential office service and employment centers. 11-G DCMR §§ 100.1 – 100.2. Buildings in the MU-4 District may be constructed to a maximum height of 50 feet with no limit on the number of stories, and up to 75 percent lot coverage under the IZ provisions. The maximum density permitted is 3.0 FAR under the IZ provisions, of which no more than 1.5 FAR may be devoted to non-residential uses. Habitable penthouses may be constructed to a height of

12 feet, while mechanical penthouses may be 15 feet in height above the building roof. 11-G DCMR §§ 402.1, 403.1, 403.3, and 404.1.

## 2. Proposed RA-2 Zoning

Like the RA-1 District, the RA-2 District permits flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts. It also allows for the construction of certain institutional and semi-public buildings that would be compatible with adjoining residential uses that are restricted from the more restrictive residential zones. 11-F DCMR § 300. The RA-2 zone provides for areas developed with predominantly moderate-density residential uses.

Buildings in the RA-2 District may be constructed to a maximum height of 50 feet, with a maximum density of 2.16 FAR under the IZ provisions, and up to 60 percent lot coverage. 11-F DCMR §§ 300.4, 302, 303 and 304. Habitable penthouses may be constructed to a height of 12 feet, and mechanical penthouses to a height of 15 feet.

## D. Comprehensive Plan Map Designations

### 1. Future Land Use Map

The Future Land Use Map of the Comprehensive Plan (“FLUM”) classifies the Property as suitable for moderate-density residential uses, as shown on an excerpt of the FLUM below. The site immediately abuts the medium-density residential and low-density commercial classifications.

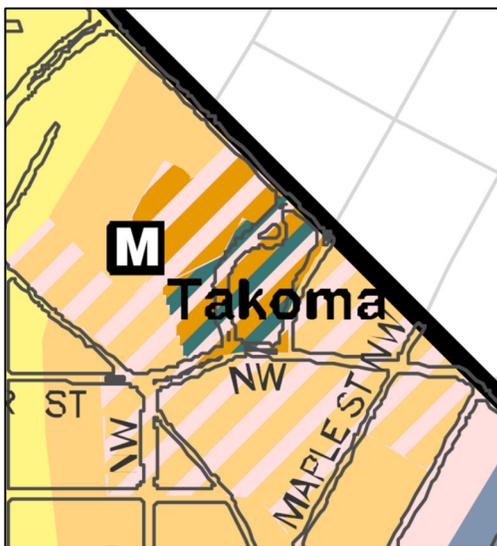


Figure 3a: Future Land Use Map (Council adopted)

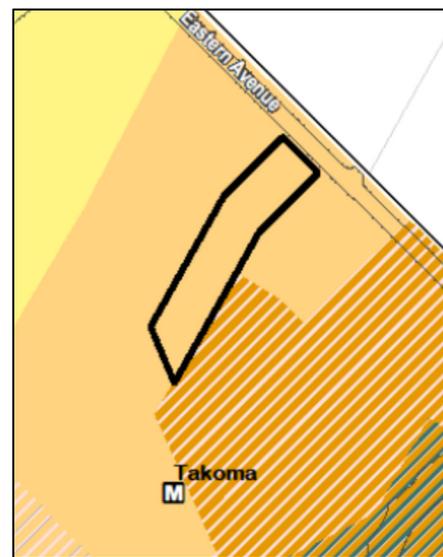


Figure 3b: Future Land Use Map (OP GIS)



#### **Moderate Density Residential**

Defines neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all).

The Comprehensive Plan defines the moderate-density residential category as follows:

Moderate Density Residential: This designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply.

10-A DCMR § 227.6.

The Comprehensive Plan defines the abutting medium-density residential and low-density commercial categories as follows:

Medium Density Residential: This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply.

\* \* \*

Low Density Commercial: This designation is used to define shopping and service areas that are generally lower in scale and intensity. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts that draw from a broader market area. Their common feature is that they are comprised primarily of commercial and missed-use buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-3 and MU-4 Zone Districts are consistent with the Low Density category, and other zones may also apply.

10-A DCMR §§ 227.7 and 227.10.

## 2. Generalized Policy Map

The Generalized Policy Map of the Comprehensive Plan places the Property in the neighborhood conservation area, as shown on the maps below. It is also immediately adjacent to the Neighborhood Enhancement Area.



Figure 4a: Generalized Policy Map (Council adopted)

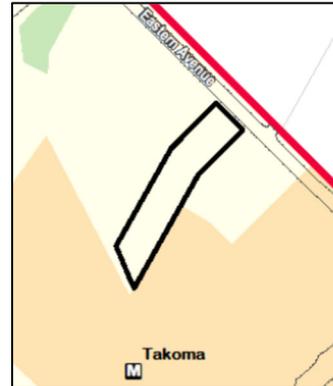


Figure 4b: GPM (OP GIS)

 **Neighborhood Conservation Areas**

The Comprehensive Plan describes the “**Neighborhood Conservation Area**” as one with little vacant or underutilized land.” It notes that when change occurs, “it will typically be modest in scale” although “some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map.” 10-A DCMR §§ 225.4.

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alteration should be compatible with the existing scale, natural features, and character of each area....In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated....

10-A DCMR § 225.5.

The Comprehensive Plan describes the abutting “**Neighborhood Enhancement Area**” as neighborhoods with “substantial amounts of vacant and underutilized land” that “present opportunities for compatible infill development, including new single-family homes, townhomes, other density housing types, mixed-use buildings....” The diversity and inclusivity of the community should be encouraged. 10-A DCMR § 225.6.

**E. Small Area Plan**

The District of Columbia Council adopted the Takoma Central District Plan as a small area plan in 2002. It was designed to define revitalization goals; provide a predictable development guide for compatibility of new development; promote a consistent and integrated planning and design approach for the commercial and mixed-use areas of Takoma Park; reinforce development and revitalization initiatives based on smart growth principles and transit-oriented development; and to create a process that encourages citizen participation.<sup>1</sup>

The key elements of the Takoma Central District Plan have been incorporated into the Rock Creek East Element of the Comprehensive Plan. 10-A DCMR § 2211.3. The provisions of the Central District Plan relevant to the Property are addressed below.

**III. DESCRIPTION OF THE PROJECT**

**A. Summary of Development Plan**

The Applicant proposes to construct a four-story apartment building with approximately 61,850 square feet of GFA devoted to affordable housing. An additional 8,093 square feet of GFA (0.3 FAR) will be located in a habitable penthouse with approximately seven affordable units. The building will provide a total of approximately 80 affordable units. Amenity space and residential service areas will comprise approximately 3,770 square feet of GFA. A rooftop deck, at the penthouse level, is located at the front of the building and a landscaped patio and garden is at the rear of the building at grade level. The overall height of the building is 40 feet; the habitable penthouse is 11 feet in height, with the mechanical penthouse rising to a height of no more than 15 feet. Parking and loading facilities are located in the below-grade garage accessed from Eastern Avenue, N.W.

The Project has been designed to fit comfortably within the Takoma Park Historic District. The overall building height of 40 feet is consistent with the three- to four-story multi-family residential buildings to the north and throughout the Takoma neighborhood. The massing of the building's front elevation is broken down with two bays. The primary front bay is setback 25 feet, while the second bay with the garage entry is setback 35 feet, allowing for a graceful transition between the varying setbacks of the buildings to the north and south. The main entrance is located at the primary front bay, which features brick to the top of the facade, and is further articulated with a rustic metal canopy. The secondary front bay features brick up to the third-floor level with wood tone siding above, setting a datum line that relates to the adjacent lower building to the south. The windows in the brick areas are detailed with a projecting brick course at the sill, head, and jams. Along the sides of the building the massing is aesthetically broken down into four smaller volumes through articulations of grey, white, and wood tones of panel siding and lap siding, and through subtle projections. A mix of recessed and Juliette balconies creates visual interest on the front and side elevations. The rear of the building terminates in an angle approximately parallel to the rear property line and rail tracks, and features recessed balconies. Parking and loading facilities are located below grade and are

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<sup>1</sup> Takoma Central District Plan, 2002, at 1 ([Takoma%20final.pdf \(dc.gov\)](#)).

accessed through a single entrance at the south side of the front façade where the building is set back 35 feet. The open space at the front of the building is enhanced with an entrance garden and landscaping to buffer the private areas from the public realm and to enhance the streetscape experience. The site plan includes plantings and a stormwater retention landscape around the perimeter of the building and a garden patio at the rear for the use and enjoyment of the residents.

## **B. Compatibility with the Takoma Park Historic District**

The building has been designed to complement the character and aesthetic of the Takoma Park Historic District. Last fall, the Historic Preservation Review Board (“**HPRB**”) found the concept design of an earlier, six-story version of the building to be compatible with the historic district. HPRB determined that the proposal would

significantly improve the condition presented by the existing building’s blank street elevation but with sensitivity in its siting and architectural treatment to relate to the character of the historic district. Pulling the building back from the property line, orienting the façade of the building to the street, and providing a landscaped front garden will provide a compatible setting and relationship of the building to the street. The front setback and façade modulation in height and mass will result in a height and scale that will be harmonious with the flanking buildings and, more importantly, relate to the character of the historic district. The use of brick, siding and shingles in a variety of earth tones relate to materials and colors characteristic of the historic district and are used to break down the scale and size of the building.

HPRB Staff Report, HPA Case No. 22-487 (October 27, 2022). At the direction of HPRB, the Applicant made further refinements to the entrance of the building, which received favorable action in November 2022.

The Applicant returned to HRPB on July 27, 2023, with the four-story design, which also lowered the height of the garage door entrance. HPRB found the revised concept to “remain compatible in height, massing and materials with the Takoma Park Historic District” with the height reduction in the garage door to be an improvement over the previous proposal. HPRB also requested the Applicant to study some minor refinements to the rear elevation. HPRB staff completed its review of the design submitted in this application and approved the revision as responsive to the HPRB comments. Copies of the HPRB staff reports are attached as Exhibit E.

## **C. Access, Circulation, Parking and Loading**

Parking and loading facilities are located below grade and accessed from Eastern Avenue, N.W., via a driveway and ramp at the south recessed façade of the building, as shown on Sheets A-101 and A-200 of the drawings attached as Exhibit H. The Project will provide approximately 23 parking spaces, ten of which will be compact in size and 13 standard spaces. The Applicant will re-use and re-align the existing curb cut as the single access point to the PUD Site. A walkway from Eastern Avenue provides pedestrian access to a landscaped entrance plaza

and the building's lobby doors. Short-term bicycle spaces are located in the entrance courtyard. A landscaped sidewalk along the south side of the building leads to a rear courtyard. A secondary ground floor entrance along the south side of the building provides additional access to the exterior sidewalk and rear courtyard. The north side yard is heavily landscaped to buffer the Eastmont Cooperative to the north and does not provide any pedestrian access.

#### **D. Amenity Space, Landscaping, and Public Space Improvements**

The Project is unusual in the amount and quality of amenity space provided as part of an affordable housing development. A community room and rooftop deck are located at the penthouse level at the front of the building for use by all building residents. Several units include outdoor balconies, and all residents can enjoy the outdoor living spaces of the development. The studio and one-bedroom units are generously sized, averaging approximately 450 square feet and 640 square feet, respectively. By comparison, the Inclusionary Zoning regulations issued by the D.C. Department of Housing and Community Development (“DHCD”) indicate that studios and one-bedrooms should have approximately 400 square feet and 550 square feet, respectively. The Project includes eight units devoted to permanent supportive housing for those formerly without homes. The supportive services are designed to build independent living and tenancy skills and connect people with community-based health care, treatment, and employment services. An on-site service provider will assist these support housing residents to help ensure their success in the new residential community. Separate meeting space will be set aside for EGTA, for resident services provided by NHPF's subsidiary, Operation Pathways, and for the on-site manager. Additionally, there will be an office for a resident coordinator working with permanent supportive housing (“PSH”) residents.

Although the Property is long and narrow, the Applicant has successfully incorporated extensive landscaping into the plan, as shown on Sheet CIV191 in Exhibit H. The front of the building features an entrance court with lush plantings and vegetation separating the public sidewalk from the building. The area will feature two Okame cherry trees, variegated liriopse, knockout roses, hydrangea, and inkberry holly, or similar plantings, and will incorporate a bioretention facility. Along the north and south side yards toward the front of the Property, eastern redbud trees, switchgrass and northern bayberry will provide a thick landscape buffer between the Project and the adjacent residential buildings. A patio area is located at the rear of the building that features star magnolia trees, liriopse, littleleaf boxwood and a seating area for the residents.

Within the public space, the Applicant will expand the existing narrow sidewalk onto its private property and install a grass planting strip at the street. These improvements will bring this segment of the public sidewalk into compliance with DDOT standards, and improve pedestrian safety and walkability in the immediate area.

#### **E. Environmental Protection and Sustainability**

The Project will meet the green area ratio (“GAR”) requirement of 0.4 GAR for the RA-2 District through the provision of sustainable design features and programmatic elements. Solar panels will be installed and will provide space beneath for a vegetated green roof. The Project

will also feature on-site stormwater management controls, bioretention facilities, and an all-electric non-combustion building (gas-free apartments) that is designed to meet the requirements of the Enterprise Green Communities Plus and the Department of Energy's Zero Energy Ready Homes standards. The Enterprise Green Communities are national environmental design standards created specifically for the affordable housing sector. Among its many goals, green community standards were developed to advance racial equity and achieve economic and environmental justice in areas where black and brown populations have historically been more likely to live in unhealthy homes that lack access to transit and other resources.<sup>2</sup> The standards help ensure that housing is healthy, efficient and climate resilient.

**F. Zoning Summary and Tabulation of Development Data**

The zoning summary and tabulation of development data are provided on Sheet G-003 of the architectural plans attached as Exhibit H.

**IV. COMPLIANCE WITH THE STANDARDS OF REVIEW FOR A CONSOLIDATED PLANNED UNIT DEVELOPMENT AND RELATED MAP AMENDMENT**

**A. Overview**

The PUD process is the appropriate mechanism for guiding the development of the site with a related map amendment to the RA-2 District. It allows the Applicant to replace in a coordinated fashion an outmoded 36-unit apartment building on an underutilized site with an exceptional planned development providing approximately 80 affordable units in an attractively designed building that complements the Takoma Park Historic District. The PUD process is designed to produce higher quality development through flexibility in building controls, including building height and density, provided that it results in a project superior to matter-of-right standards, offers a commendable number of public benefits, and protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. 11-X DCMR § 300.1. As discussed in greater detail below, the proposed Project meets these goals and the specific requirements and evaluation standards for PUDs.

**B. PUD Requirements**

1. Minimum Land Area

Pursuant to 11-X DCMR § 301.1, a PUD in the RA-2 District is required to have a minimum land area of one acre, or 43,560 square feet. The PUD Site has a total of 26,682 square feet of land area, or only 61.2 percent of the required land area. The Applicant requests a waiver of this requirement. The Zoning Commission may waive up to 50 percent of the minimum area requirement, provided the Commission finds that the development is of exceptional merit and is in the best interest of the District of Columbia or the country and one of the following: (i) the development is identified in an approved Small Area Plan and will be generally not inconsistent with the Small Area Plan; (ii) the development will be constructed or

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<sup>2</sup> [Green Communities | Enterprise Community Partners](#).

operated by the District of Columbia or federal government and serves a compelling government interest; or (iii) if the development is located outside the Central Employment Area, at least eighty percent (80%) of the GFA must be used exclusively for dwelling units and uses accessory thereto. 11-X DCMR § 301.2. Here, the proposed PUD meets the third condition by devoting 100 percent of the Project’s GFA to dwelling units and uses accessory thereto. Moreover, the Project is of exceptional merit and in the best interest of the District because 100 percent of the units will be dedicated to affordable housing. In order to allow existing Elm Garden residents to return to the new building upon its completion, several units may initially accommodate tenants who exceed the 80 percent MFI limit. Upon turnover, however, those units would become income-restricted to achieve the 100 percent affordability commitment.

2. No Relief from Building Development Parameters

As part of the PUD process, the Commission is authorized to grant relief from any building development parameters pursuant to 11-X DCMR § 303.1. The Applicant does not seek any zoning relief from the development parameters.

C. Flexibility under the PUD Guidelines

The PUD process was created to allow greater flexibility in planning and design than may otherwise be possible under conventional zoning procedures. Under the Zoning Regulations, a PUD-related Zoning Map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD. 11-X DCMR § 303.12. Here, the application includes a Zoning Map amendment to rezone the property to the RA-2 District that will allow for greater density on the site. In all other respects, the Project would comply with the development parameters of the RA-2 District.

1. Height and Density

A comparison of the heights and densities of the existing RA-1 District and the proposed RA-2 zone under the PUD are summarized below.

	Existing RA-1	Proposed RA-2	Proposed PUD
<b>Height</b>	40 feet; 3 stories 60 feet PUD	50 feet; no limit 60 feet PUD	40 feet, 4 stories
<b>FAR</b>	1.08 (IZ)	2.16 (IZ) Plus 20% PUD up to 2.59	2.32

The Applicant seeks PUD flexibility to increase the building density to 2.32 FAR under the PUD standards for the RA-2 District in order to provide as much affordable housing in the Project within a four-story building. The Applicant seeks a density increase of approximately eight percent where up to 20 percent may be permitted under 11-X DCMR §§ 303.3 - .4. The height of the building will be approximately 40 feet, as measured from the building height measuring point (“BHMP”) under 11-B DCMR § 308. The proposed height is consistent with the permitted height of 40 feet in the RA-1 District, and falls well below the 60 feet permitted through the PUD process for both the RA-1 and RA-2 zones.

## 2. Design Flexibility

The Applicant requests the following design flexibility that may be necessary to address potential issues that arise during construction or cannot be anticipated at this time.

a. Number and Mix of Dwelling Units. To provide a range in the number of residential units of plus or minus ten percent (10%) to respond to affordable housing market demand for unit size and number of bedrooms, except that the total square footage reserved for affordable housing shall not be reduced.

b. Number and Layout of Parking Spaces. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations.

c. Interior Components. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, and to vary the layout and exact size of the residential amenity space, provided that the variations do not materially change the exterior configuration of the building as shown on the plans approved by the order;

d. Exterior Materials. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the plans approved by the order, subject to final HPRB approval;

e. Exterior Details. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, windows, and skylights, subject to final HPRB approval;

f. Exterior Courtyards and Rooftop: To vary the configuration and layout of the exterior courtyards and rooftops provided the courtyards and rooftops continue to function in the manner proposed and the overall design intent, general locations for landscaping and hardscaping, and quality of materials are maintained, subject to final HPRB approval;

g. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and

h. Sustainable Features. To vary the approved sustainable features of the Project, including the final layout of the landscape elements, provided the Project will continue to meet the minimum requirement of 0.4 GAR, the Enterprise Green Communities Plus and the Department of Energy's Zero Energy Ready Homes standards or make adjustments to the standards being pursued to maximize the applicant's ability to meet DHCD standards for funding.

## **D. The PUD Evaluation Standards**

### **1. Not Inconsistent with the Comprehensive Plan and Other Adopted Policies**

The proposed PUD advances the purposes of the Comprehensive Plan, is consistent with the PUD Site's designations on the FLUM and the Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and directly fulfills many of the major elements of the Comprehensive Plan. *See* 11-X DCMR § 304.4 (a). When viewed through a racial equity lens, the proposed PUD is not inconsistent with the Comprehensive Plan. In fact, the Project directly responds to the city's affordable housing crisis by producing approximately 80 units to serve low-income households adjacent to a Metrorail station. An analysis of the Project's fulfillment of the many goals and objectives of the Comprehensive Plan and other adopted public policies and active programs is attached as Exhibit F.

### **2. No Unacceptable Project Impacts**

The proposed Project does not result in any unacceptable impacts on the surrounding community or on the operation of any city services and facilities. *See* 11-X DCMR § 304.4 (b). Instead, the Project will enhance the built environment along Eastern Avenue and the architectural quality of the Takoma Park Historic District while providing critically needed affordable housing adjacent to a Metrorail station. While the Eastmont Cooperative, the adjacent property owner to the north, objected to a previous six-story design, the Project was reduced in height to four stories and approximately 40 feet, in direct response to the Eastmont Cooperative's request to minimize potential effects on light and air and be consistent with the 40-foot height limit of the RA-1 District. The reduced height is well below the permitted height of 60 feet allowed under the PUD regulations for both the existing RA-1 District and the proposed RA-2 District. Importantly, any perceived modest impact of the Project's building height would be deemed acceptable given the exceptional quality of the affordable housing benefit of the PUD. *Id.*

### **3. Public Benefits and Project Amenities**

#### **a. Overview**

The PUD provisions of the Zoning Regulations require the Commission to evaluate specific public benefits and amenities of a proposed project. Public benefits are defined as "superior features of a proposed planned unit development that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development on the site under the matter of right provisions of this title." 11-X DCMR § 305.2. A project amenity is defined as "one type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience or comfort of the project for occupants and immediate neighbors." 11-X DCMR § 305.10. Furthermore, in evaluating a PUD application, the Commission is required to "judge, balance and reconcile the relative value of amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific

circumstances of the case.” 11-X DCMR § 304.3. A project with only just one of the public benefits listed in the PUD regulations may qualify for approval if particularly strong in that particular area or category. 11-X DCMR §§ 305.5 and .12.

b. Affordable Housing

Affordable housing is the single-most important benefit provided by the proposed PUD and serves one of the highest priorities of the District. It directly fulfills the numerous affordable housing goals set forth in the Comprehensive Plan as well as the city’s goal of producing an additional 12,000 units of affordable housing by 2025 as announced in the Housing Equity Report of 2019. The proposed PUD will provide 80 units that will be devoted to households earning between 30 and 80 percent of the MFI for the Washington Metropolitan Area. In order to accommodate return Elm Gardens tenants, some units may initially house over-income residents. Eventually, however, the Project will only serve low- and moderate-income households. The 36 units in the existing Elm Gardens will be “preserved” in the new building and, through the PUD and related map amendment process, approximately 44 new affordable units will be added to the city’s housing stock. It dramatically exceeds what could be achieved under the ten percent IZ requirement of the matter-of-right RA-1 or RA-2 development parameters.

c. Superior Urban Design, Architecture, Site Planning, Landscaping, and Historic Preservation

The Project provides an exemplary contextual design that comfortably reflects the scale and height of the surrounding garden-style apartments while at the same time enhancing the quality of the architectural aesthetic along Eastern Avenue and the Takoma Park Historic District as a whole. The most significant urban design improvement is the replacement of the existing blank street wall with a fully articulated façade along Eastern Avenue. The street elevation incorporates setbacks of 25 and 35 feet to create a stepped transition between the Eastmont Cooperative buildings to the north, which are set back 10 feet from the street, and the garden apartment to the south, which is set back 38 feet. Landscaping and an entrance court further enhance the urban streetscape in a warm and welcoming fashion. The materials are expressed in a variety of textures and earth tones that complement those of the historic district. The HPRB found that the Project significantly improves the existing conditions, but more importantly, enriches the historic district through sensitive siting and architectural treatment.

**V. Evaluation of the Project Through a Racial Equity Lens**

**A. Summary**

A fundamental goal of the Comprehensive Plan is to ensure that all residents share “equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or gender.” 10-A DCMR § 213.6. The Comprehensive Plan directs the Commission “to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis.” 10-A DCMR § 2501.8. In April 2022, the Zoning Commission released its initial racial equity analysis tool to help evaluate a proposed zoning action through a racial equity lens in analyzing consistency with the citywide and area elements of the Comprehensive Plan. The

Applicant began its evaluation of the Project and its community engagement efforts in 2022 using that evaluation tool. In February 2023, the Commission released its updated racial equity tool and the Applicant adjusted its evaluation of the Project and engagement with the community in response.

The Commission's February 2023 Racial Equity Tool is divided into four parts. Part 1 addresses the racial equity analysis to be provided by the Applicant and the D.C. Office of Planning discussing the Citywide and Area Elements of the Comprehensive Plan that explicitly focus on advancing equity. Part 2 directs the Applicant to describe its community outreach and engagement, focusing on specific questions listed in the racial equity tool. Under Part 3, an Applicant is to provide disaggregated data regarding race and ethnicity to assist in the racial equity analysis. Finally, under Part 4, the Commission evaluates the Project in light of the data provided. The following discussion analyzes the Project's conformance with the Comprehensive Plan when viewed through a racial equity lens using the Commission's February 2023 Racial Equity Tool.

## **B. Part 1: Racial Equity Provisions in the Comprehensive Plan**

The Applicant has fully evaluated the Project under the Comprehensive Plan and those particular Citywide and Area elements that explicitly focused on advancing equity in Exhibit F. When analyzed through a racial equity lens, the proposed PUD and related map amendment to the RA-2 District are fully consistent with the Future Land Use Map and Comprehensive Plan policies that encourage and promote more levels of housing affordability with access to employment opportunities, services, and amenities in the immediate Takoma Park neighborhood. The zoning action would positively affect housing opportunities in the District, and affordable housing production, in particular. The Project is fully consistent with the Future Land Use Map designation for moderate-density residential development and the Neighborhood Conservation Area guidance on the Generalized Policy Map.

## **C. Part 2: Community Outreach and Engagement**

### **1. Background**

The Applicant has engaged with the community over the past 16 months regarding the redevelopment of the Property, first as a proposed map amendment to the RA-3 District in Z.C. Case 22-33 and, subsequently, as a PUD with a related map amendment to the RA-2 District in the instant application after the Commission indicated it would not support RA-3 zoning. The Applicant began working with the existing tenants of Elm Gardens Apartments in early 2022 as part of the TOPA proceedings. The residents formed EGTA and voted by an overwhelming majority in June 2022 to assign its TOPA rights to the Applicant because of the affordability component of the proposed replacement building and the relocation-return plan for existing tenants. NHPF was required to match an existing market-rate offer for the Property.

In August of 2022, the Applicant initiated its outreach efforts to the broader community primarily through Advisory Neighborhood Commission ("ANC") 4B, the area in which the Property is located. The Applicant presented its proposal at numerous community meetings,

including ANC 4B's regular public meetings, and its Housing Justice Committee; three presentations to the HPRB; and other discussions with other community stakeholders. During the proceedings in Z.C. Case No. 22-33, the Applicant had several targeted discussions with the Eastmont Cooperative, Inc., the adjacent property to the north, and those interactions have continued under the current application. The Eastmont Cooperative opposed the RA-3 rezoning in Z.C. Case No. 22-33 and continues to object to increased height and density on the Property under the current PUD and map amendment proposal. The following analysis describes the Applicant's outreach efforts as illuminated by the questions in Part 2 of the Commission's Racial Equity Tool and listed below.

2. The Community

a. What community is impacted by the zoning action?

The community affected by the proposed zoning action is the Takoma Park neighborhood of ANC 4B. It is part of the Rock Creek East area of the Comprehensive Plan. The current tenants of Elm Gardens are most directly affected by the zoning action. The demographic breakdown of the Elm Gardens residents is 42.9 percent African-American, 28.6 percent Hispanic, 25 percent Caucasian, and 3.6 percent Asian. The Eastmont Cooperative, Inc., abuts the Property to the north and, as noted above, has objected to the Applicant's redevelopment plans. The Takoma Park community directly across Eastern Avenue in Montgomery County, Maryland, would also potentially be affected by the proposed PUD and related map amendment to the RA-2 District. Takoma Park, Inc., a preservation organization representing the Maryland portion of the Takoma Historic District, supported the previous, six-story design of the Project permitted under the proposed RA-3 zoning in Z.C. Case No. 22-33.

b. What specific factors define the impacted community and what are some of its defining characteristics?

The Takoma Park neighborhood is centered around the former B & O Railroad station, now the Takoma Park Metrorail Station. For the past 50 years the area has enjoyed a reputation for diversity and inclusivity. The cohesive community extends across Eastern Avenue into Takoma Park, Maryland. Founded in 1883, it is considered one of Washington's earliest commuter suburbs. A large portion of the Takoma Park neighborhood falls within the boundaries of the Takoma Park Historic District, which is characterized by a variety of late-nineteenth century and early-twentieth century building types, including large Stick and Shingle style, Colonial Revival and Bungalow houses, and small and mid-size commercial buildings. The 7000 block of Eastern Avenue just east of the Metrorail tracks was primarily industrial land until the 1960s when several small-scale apartment buildings were constructed along Eastern Avenue, including Elm Gardens Apartments at the Site and what is now the Eastmont Cooperative at 7054-7060 Eastern Avenue, N.W. While located within the historic district, the Site and adjacent properties to the north and south do not contribute to the area's historic character.

c. Who would potentially be burdened as a result of the zoning action?

Those who would be most directly burdened as a result of the zoning action are the residents of the Elm Garden Apartments on the Site. The proposed PUD and related map amendment to the RA-2 District would allow the Applicant to replace the existing 36-unit building with an 80-unit residential building. This action would cause the temporary displacement of the residents. Significantly, these very residents voted overwhelmingly to assign their TOPA rights to the Applicant to acquire the Property and pursue the construction of a larger, modern, energy-efficient building devoted to affordable housing. The Applicant will provide existing residents with significant relocation assistance, and each will be welcomed back to the new building. Details of the relocation plan and right of return are discussed later in this document.

The abutting properties to the north and south also would potentially be burdened as a result of the zoning action. As noted above, the Eastmont Cooperative to the north has already objected to the proposed redevelopment of the Property. The owner of the apartment building to the south reached out to the Applicant in 2022 in response to the notice of intent to file the RA-3 map amendment in Z.C. Case No. 22-33, but did not have any objections. That owner has likewise not raised any objection to the current proposal as a result of the new notice of intent for the instant application mailed on June 9, 2023.

Should the zoning action be approved, the primary impact for the immediate neighbors would be during the construction period for the project. NHPF will hold community meetings to discuss construction impacts and construction-related activities and implement mitigation measures.

d. Within the community, who would potentially benefit as a result of the zoning action?

The existing Elm Gardens Apartment residents would enjoy the greatest direct benefit as a result of the zoning action. All residents living at EGA when redevelopment commences would have the opportunity to return to the new, amenity-rich, energy-efficient building at their present rent, plus a two percent increase. Thereafter, the rent would increase at an annual rate equal to the greater of two percent or a change in the consumer price index (“CPI”), capped at seven percent.

Low- and moderate-income households throughout the community and citywide would also enjoy a significant benefit as a result of the zoning action due to the affordable housing restrictions on the property. The Applicant has recorded covenants against the Site to ensure that units in the proposed PUD are reserved for households earning no more than 80 percent of the mean family income (“MFI”) for the Washington region. Additionally, the Applicant’s proposed low-income housing tax credit redevelopment would mandate that the average of all rents be no higher than 60 percent of MFI for a minimum of 30 years. Significantly, as a not-for-profit affordable housing provider, the Applicant expects to operate the building as an affordable building in perpetuity. Low- and moderate-income households would further benefit from the

Project's adjacency to the Takoma Park Metrorail Station. The Project would provide not only high-quality public transportation options for these low- and moderate-income families, but greater access to job opportunities, as well.

Finally, the Takoma Park community and the city at large would benefit from a well-designed, energy-efficient building that will help ease the housing crisis in the District, contribute significantly to the targeted number of new affordable units in Rock Creek East, and help stabilize housing costs across the city. The utilitarian design with a blank street façade will be replaced with an aesthetically pleasing, fully articulated street façade, enhanced by graceful setbacks and lush plantings that will significantly improve the streetscape experience and the quality of the environ along Eastern Avenue, N.W., and in Takoma Park.

### 3. Past and Present Racial Discrimination/Harm to the Community

Many of the Ward 4 neighborhoods established at the turn of the twentieth century included racially restrictive covenants that barred the sale of property to Jews and Blacks, or persons of other ancestries.<sup>3</sup> As described in the Ward 4 Heritage Trail Guide published by the D.C. Office of Planning, these restrictions were deemed a selling point in attracting affluent white families in the 1910s and 1920s. The restrictions could be found in many of the residential areas along 16<sup>th</sup> Street Heights and Fort Stevens, but were deemed unnecessary for commercial and industrially zoned areas along the Baltimore & Ohio railroad tracks. In 1948, the U.S. Supreme Court ruled racially restrictive covenants unenforceable in the twin cases of *Shelley v. Kraemer*, 334 U.S.1, 68 S.Ct. 836 (1948) and *Hurd v. Hodge*, 334 U.S. 24, 68 S.Ct. 847 (1948).

Since the late 1960s, the Takoma Park neighborhood has been fortunate to enjoy a reputation for diversity and inclusivity. According to the Office of Planning Demographic Data Hub, the Rock Creek East Planning Area in which the Property is located had a population in 2020 of approximately 82,167 people, or approximately 11.7 percent of the city's total.<sup>4</sup> Approximately 45.1 percent of the residents were Black, which was comparable to the citywide percentage of Black residents (45.4 percent). The Hispanic/Latino population comprised 20.4 percent of the Rock Creek East Area, which exceeded the citywide composition of 11.1 percent. The median household income in the Rock Creek East Area was \$87,401 compared to the citywide median of \$131,164.

The Rock Creek East Area has approximately 30,976 housing units, which represents approximately 9.7 percent of the city's total unit count. *Id.* The District's 2019 Housing Equity Report indicates that approximately 2,650 of these units are affordable, which represents approximately 5.1 percent of the city's total affordable housing stock in 2019.<sup>5</sup> The District has set a goal of producing an additional 1,500 affordable units in this planning area by 2025. *Id.* Under the proposed PUD and map amendment to the RA-2 District, the project will produce an all-affordable apartment building with 80 units, which far exceeds the affordable housing potential under the existing RA-1 zoning.

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<sup>3</sup> See Ward 4 Heritage Guide, D.C. Office of Planning, 2015, at 17 ([Ward 4 Heritage Guide Final\\_0.pdf \(dc.gov\)](#)).

<sup>4</sup> [OP Demographic Data HUB \(dc.gov\)](#).

<sup>5</sup> [Housing Equity Report FINAL FINAL 10-11-19.ai \(dc.gov\)](#).

4. Community Participation/Outreach Efforts

a. What unique factors about the affected community and/or communities influenced your outreach plan/efforts?

There were several factors that influenced the Applicant's outreach efforts. First and foremost, the Applicant needed to address the concerns and desires of the existing Elm Gardens Apartment community. These residents would directly suffer the greatest consequences of the sale of the existing building and redevelopment of the Property. It was incumbent on the Applicant to protect their interests. Moreover, the Applicant has entered into a Developer and Assignment of TOPA Rights Agreement with EGTA and has a fiduciary responsibility to the residents of EGA. Because the Applicant is able to provide relocation assistance, affordability assurances, and a high-quality, sustainably designed replacement building, the tenants association overwhelmingly elected to assign its TOPA rights to the Applicant.

The Property's location within the Takoma Park Historic District also greatly influenced the Applicant's community outreach efforts. The Applicant engaged Soto Architects, an experienced architectural firm focusing on contextual design, to develop a building that would be compatible with the Takoma Park Historic District and provide assurances to the surrounding community that the project would result in an architecturally compatible building. The Applicant met with the staff of the Historic Preservation Office several times to solicit feedback on the proposed design and make adjustments accordingly. HPRB has endorsed the concept design as submitted in this application.

Additionally, the unique interests of the Eastmont Cooperative, Inc., to the north caused the Applicant to engage in numerous specific discussions with the cooperative board members and residents in an attempt to address its concerns to protect its community. The Eastmont Cooperative was formed as a tenant association and purchased its property in 1986. Like EGTA, the majority of the cooperative shareholders are Black and Latino, who have expressed concern that the Project could negatively affect its cooperative community.

Finally, the Applicant has had several discussions with Ward 4 Councilmember Janeese Lewis George and her staff to ensure it understands and addresses broader community issues and concerns. The councilmember expressed her strong support for the previous proposal under Z.C. Case 22-33 and continues to support the current plans as presented in this application.

b. How were your outreach efforts proactive in terms of meeting community needs and circumstances?

The Applicant worked closely with the single member district representative ("SMD") from ANC 4B to ensure the proposed plans for the Project were discussed with community stakeholders. The SMD provided valuable guidance on the overarching community concerns for affordable housing and the appropriate contacts in Takoma Park, Maryland. The ANC also provided notice to community stakeholders through various channels. Upon learning of concerns expressed by the Eastmont Cooperative, the Applicant arranged for several one-on-one meetings with the Eastmont residents to address concerns raised during the RA-3 map

amendment proceedings. The Applicant also now communicates with the cooperative board members through email addresses provided by the cooperative to ensure meetings can be established at mutually agreeable times to allow the greatest attendance.

The following is a list of the Applicant’s proactive outreach efforts, notices, and formal meetings about plans for the Site, as well as the dates of Zoning Commission review in Case No. 22-33 and further community discussions under that proceeding.

<b>Date</b>	<b>Organization/Action</b>	<b>Description/Outcome</b>
August 2022	SMD for ANC 4B	Multiple informal discussions regarding rezoning Site to RA-3, affordable housing component, and concept plans for replacement building
August 11, 2022	Office of Planning	Informal introduction to project to solicit input
August 30, 2022	NOI to File Map Amendment	Notice to property owners within 200 feet of Site of intent to file a map amendment application; response received from property owner to south of Site
September 21, 2022	ANC Meeting Notice Posted on ANC Website	ANC notice of draft agenda for 9/28/22 meeting, including proposal for Site
September 26, 2022	HPRB Website	Posting of concept plans and application for replacement building on HPRB website; application form notes proposed RA-3 rezoning <sup>6</sup>
September 27, 2022	HPRB Notice Posted at Site	Public notice of upcoming HPRB project review posted at Site
September 28, 2022	ANC Meeting	Applicant’s introduction of rezoning and concept design for Site to ANC, community; Positive feedback voiced at meeting; Applicant directed to present project to ANC Housing Justice Committee on October 5, 2022 <sup>7</sup>
October 5, 2022	ANC Housing Justice Committee meeting	Further discussions on the affordable housing component, tenant relocation, and amenities
October 19, 2022	Takoma Park, Md. Ward One Councilmember	Applicant’s discussion with City of Takoma Park, Md., Ward One Councilmember regarding proposal
October 27, 2022	HPRB Meeting	HPRB review of concept design for RA-3 replacement building; further study requested on façade design, but not comments on height

<sup>6</sup> See Item No. 7 on concept application form. [Concept Application HPRB - NHP Fdn 7050 Eastern Ave revd 9.26.22 SIGNED.pdf | Powered by Box.](#)

<sup>7 7</sup> See [Minutes – September 2022 – Advisory Neighborhood Commission 4B \(anc4b.com\)](#) with video link at 1:54:00 – 2:12:00 to presentation on 7050 Eastern Ave., N.W.; [Minutes – October 2022 – Advisory Neighborhood Commission 4B \(anc4b.com\)](#), with video link to consent calendar vote at 40:54-43.18 on resolutions to support ZC Case No. 22-33 and HPRB concept design.

		or massing; letter from adjacent owner objecting to height/massing noted <sup>8</sup>
November 17, 2022	HPRB Meeting	Concept design approved: height, massing, and design compatible with Takoma Park HD, in part based on sightline studies prepared by Applicant; Historic Takoma (Md.) in support
March 13, 2023	ZC Hearing – Case No. 22-33	Applicant voluntarily postpones hearing due to newly filed opposition from Eastmont Cooperative residents
March 28, 2023	Eastmont Cooperative Meeting	Applicant meets with Eastmont Cooperative to discuss proposed 6-story building under proposed RA-3 zoning
April 6, 2023	ZC Hearing – Case No. 22-33	Consideration of RA-3 map amendment, with community participation
April 12, 2023	Eastmont Cooperative Meeting	Applicant and Eastmont Cooperative meeting to discuss modifications to six-story building design to review light and air impacts on the Eastmont
April 17, 2023	Eastmont Cooperative	Applicant presents additional drawings to Eastmont Cooperative showing reductions to proposed building design
April 28, 2023	Eastmont Cooperative	Applicant presents further design modifications to reduce height, bulk and impacts of fifth and sixth stories of proposed building design
May 11, 2023	ZC Meeting	ZC deliberations on ZC Case No. 22-33 indicating disfavor with proposed RA-3 zoning and providing Applicant opportunity to amend application and willingness to expedite process, where possible
May 19, 2023	Ward 4 Councilmember	Meeting with Ward 4 Councilmember’s office to discuss proposed modified project
May 24, 2023	Ward 4 Councilmember	Follow up meeting with Ward 4 Councilmember’s office to discuss proposed modified project
June 5–July 31, 2023	Eastmont Cooperative	Numerous email exchanges between Applicant and Eastmont Cooperative over two months to find meeting time to discuss new PUD/RA-2 map amendment application, with meeting finally set for August 10, 2023
June 6, 2023	ZC Case No. 22-33	Applicant notifies ZC, parties, and Eastmont Cooperative of its plan to amend application
June 6, 2023	Office of Planning	Discussion regarding proposed amended application for a PUD and related RA-2 rezoning

<sup>8</sup> See <https://play.champds.com/dczoning/event/862/s/15626>, video link at 4:47:16 to 4:49:52, testimony of Historic Takoma, October 24, 2022, HPRB meeting regarding 7050 Eastern Ave., N.W. (HPA No. 22-487); and acknowledgement of opposition letter at 4:51:20; see also <https://play.champds.com/dczoning/event/872/s/8048>, video link to November 17, 2022, HPRB meeting, at 2:30:52 – 2:31:40 (no public comments; acknowledgement of ANC resolution and letter in record).

June 7, 2023	Historic Preservation Office	Meeting with HPO staff to discuss 4-story design
June 9, 2023	Notice of Intent to File PUD with RA-2 rezoning	Applicant notifies ANC, Eastmont Cooperative Board members, OP, and property owners within 200 feet of the property of intent to file consolidated PUD with related map amendment to RA-2 District
June 16, 2023	HPRB	Applicant submits concept drawings for 4-story building under PUD/RA-2 proposal for July HPRB review
June 26, 2023	ANC 4B	Informational meeting regarding consolidated PUD with related map amendment to RA-2 District
July 5, 2023	HPRB	Applicant submits revisions to HPRB drawings for July meeting review
July 27, 2023	HPRB	HPRB concept approval of 4-story PUD/RA-2 design, with modified rear elevation
August 9, 2023	ANC 4B Housing Justice Committee	Applicant makes informal presentation at ANC 4B Housing Justice Committee meeting
August 10, 2023	Eastmont Cooperative	Applicant meeting with Eastmont Cooperative to discuss 4-story PUD/RA-2 design

c. What are the current challenges facing the community as a result of present discrimination?

Affordable housing is perhaps the greatest challenge facing Takoma Park and the city at large. To that end, ANC 4B created the Housing Justice Committee in 2020 to address the shortage of clean, safe, affordable housing for all members of the community and to encourage and promote the construction of new affordable housing. “ANC 4B has recognized repeatedly that housing is a ‘human right’ and has passed several resolutions addressing affordable housing and homelessness.” See ANC 4B Resolution No. 4B-20-0205 Establishing Housing Justice Committee Adopted February 24, 2020.<sup>9</sup>

5. Community Priorities and Impact on Zoning Action

a. Has the community identified negative outcomes that could result from the zoning action, i.e., specific things the community doesn’t want to change/happen as a result of the zoning action?

The overwhelming majority of comments from the community stakeholders on the zoning action were positive and laudatory. They supported the initial map amendment application to the RA-3 District in Z.C. Case No. 22-33 because it would significantly increase the number of affordable units adjacent to a Metrorail Station, consistent with the goals and policies of the Comprehensive Plan and the Mayor’s initiatives. This majority expressed dismay at the Commission’s unwillingness to approve that application because it would reduce the

<sup>9</sup> [Resolution 4B-20-0205\\_TM\\_20200225101211AM.pdf \(dc.gov\)](#).

number of affordable units from 110 to 80 units. Nevertheless, to date, the overwhelming majority of comments from stakeholders indicate support for increased density at the site under the RA-2 District and the PUD regulations. The Eastmont Cooperative continues to raise concerns regarding the effects the Project may have on its community, and the Applicant has met with the cooperative in an attempt to respond to questions and address its comments.

b. *Has the community identified positive outcomes that could result from the zoning action, i.e., specific things the community wants to change as a result of the zoning action?*

The community has identified the infusion of additional affordable units as a positive outcome that is a direct result of this zoning action. The Ward 4 Councilmember and ANC representatives have strongly endorsed and identified the Project's provision of permanent supportive housing, with an on-site staff to support those residents, as a significant public benefit of the PUD. Additionally, the Project will produce an energy-efficient building of superior design, as endorsed by HPRB, and that will feature extensive landscaping, amenity space for residents, and enhancements to the public space along Eastern Avenue, N.W.

c. *Will members of the community be displaced (either directly or indirectly) as a result of the zoning action?*

The current residents of the Elm Gardens Apartments will be temporarily displaced and relocated to comparable housing in the community. When the residents of EGA were notified that the previous owner had accepted an offer to sell the building, they elected to organize and formed EGTA to exercise their rights under TOPA. After an RFP process, EGTA elected to assign its TOPA rights to NHPF specifically because of its proposal to replace the existing structure with a 110-unit apartment building dedicated to affordable housing. Existing tenants would be temporarily relocated to a site selected with the tenants' input during the predevelopment stage. All tenants would have the option to return to the new building on the site at their current rent, plus a two percent (2%) increase. The existing residents will be subject to an annual rent increase equal to the greater of two percent (2%) or a change in the CPI, capped at seven percent (7%). In the interim, residents would be relocated with assistance from NHPF, and NHPF would pay all costs associated with the relocation. NHPF will work with the tenants association to select potential relocation sites comparable to the current building and in close proximity to the existing building. NHPF will assist with packaging, moving, and transfer of utilities, and all aspects of the relocation will be handled by a relocation specialist. NHPF's goal is to reduce the impact on the residents as much as possible and cover all costs associated with the relocation. The tenants will not pay more than their current monthly payments while at the relocation site.

d. *Did community outreach inform/change your zoning action, and if so, how does it incorporate or respond directly to the community input received?*

The strong support from EGTA and the ANC; the approval recommendations from OP and DDOT; and the HPRB concept approval for the height, massing, and design of the replacement building all informed the Applicant's decision to proceed with its initial proposed

map amendment to the RA-3 District. However, as a result of comments from the Commission in Z.C. Case No. 22-33, and discussions with the Eastmont Cooperative, the Applicant has withdrawn its map amendment application in Z.C. Case 22-33. The current proposal directly responds to the issues raised by the Commission and the Eastmont Cooperative by (i) requesting rezoning to the moderate-density residential RA-2 zone; (ii) seeking the map amendment through a planned unit development to ensure that community stakeholders have a voice in the building design and the additional density sought through the PUD regulations; (iii) reducing the height of the building from 60 feet and six stories (plus penthouse) to 40 feet and four stories (plus habitable penthouse); (iv) conforming in all other respects to the RA-2 development parameters; (v) enhancing the public space in front of Elm Gardens for the benefit of the community at large; and (vii) providing other public benefits and project amenities. The Applicant also returned to HPRB with the smaller building proposal to ensure its design would still be deemed compatible with the Takoma Park Historic District. HPRB endorsed the revised design at its July 27, 2023, meeting.

e. *If the zoning action could potentially create negative outcomes, how will they be mitigated?*

With respect to concerns raised by the Eastmont Cooperative regarding loss of direct light for several south-facing units, the Applicant notes that the concept design approved by HPRB includes a 10-foot setback from the adjoining property where no side yard is required. 11-F DCMR § 306.2(b). If one is provided, it must be a minimum of only four feet, but here the proposed building will have more than double that width. The proposed setback from Eastern Avenue is 25 to 35 feet, which is a significant improvement over the existing 10-foot setback. This will enhance the light and air of four south-facing units in the Eastmont Cooperative. Similarly, the penthouse will be set back at the 1:1 ratio required under the Zoning Regulations to ensure that it does not affect the light and air of the Eastmont.

f. *What input from the community was shared but not incorporated into the zoning action?*

The Eastmont Cooperative has indicated that the proposed Project should be no more than four stories in height. While the proposed Project was reduced to four stories in height in direct response to this comment, the Eastmont has suggested that the habitable penthouse should be eliminated. The change has not been incorporated into the zoning action because it would eliminate even more affordable units from the Project, which has already experienced a loss of 30 units from the proposal under RA-3 map amendment application in Z.C. Case No. 22-33. Further reductions would likely make the Project financially infeasible as affordable housing. Based on its earlier resolutions, ANC 4B is expected to oppose any change that reduces the number of affordable units in the Project.<sup>10</sup>

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<sup>10</sup> See ANC 4B resolution to HPRB in support of the concept design, [Resolution 4B-22-1007 Supporting Construction of an Apartment Building at 7050 Eastern Avenue, NW \(HPA 22-487\) FINAL\\_TM\\_20221024081929PM.pdf \(dc.gov\)](#).

**D. Part 3: Disaggregated Data Regarding Race and Ethnicity**

1. Demographics

According to the Office of Planning Demographic Data Hub, the Rock Creek East Planning Area in which the Property is located had a population in 2020 of approximately 82,167 people, or approximately 11.7 percent of the city’s total.<sup>11</sup> Approximately 45.1 percent of the residents were Black, which was comparable to the citywide percentage of Black residents (45.4 percent). The Hispanic/Latino population comprised 20.4 percent of the Rock Creek East Area, which exceeded the citywide composition of 11.1 percent. The median household income in the Rock Creek East Area was \$87,401 compared to the citywide median of \$131,164.

2. Housing Statistics

The Rock Creek East Area has approximately 30,976 housing units, which represents approximately 9.7 percent of the city’s total unit count. *Id.* The District’s 2019 Housing Equity Report indicates that approximately 2,650 of these units are affordable, which represents approximately 5.1 percent of the city’s total affordable housing stock in 2019.<sup>12</sup> The District has set a goal of producing an additional 1,500 affordable units in this planning area by 2025. *Id.* The Project will provide approximately 80 affordable units to the District housing stock that are otherwise not possible under matter-of-right zoning. Under the Applicant’s ownership and through the restrictive covenants in place on the Property, 100 percent of the units would be set aside for households earning no more than 80 percent MFI. In order to allow existing Elm Garden residents to return to the new building upon its completion, several units may initially accommodate tenants who exceed the 80 percent MFI limit. Upon turnover, however, those units would become income-restricted to achieve the 100 percent affordability commitment.

3. Land Use by Type

As noted in the Comprehensive Plan, approximately 58 percent of the Rock Creek area housing units are single-family homes, whereas only 37 percent of the housing stock across the city is comprised of single-family dwellings. Only 21.5 percent of the residential units are in apartment buildings with more than 20 or more units, which is less than the citywide average of 35.4 percent. Approximately 56.2 percent of residents in Rock Creek East owned their homes, and 43.8 percent were renters. This contrasts with the citywide statistics of 41.7 percent home ownership and 58.3 percent leaseholders. 10-A DCMR §§ 2304.1 - .2

4. RA-1, MU-4 and RA-2 Zoning

The current RA-1 zoning permits a maximum density of 0.9 FAR and 1.08 FAR with IZ. The MU-4 District, which applies only to 4300 square feet of the Property, allows a maximum density of 2.5 FAR, or 3.0 FAR with IZ, and no more than 1.5 FAR can be devoted to nonresidential uses. Under the proposed RA-2 District, the site could accommodate up to 2.16 FAR under IZ, and up to 2.59 FAR under the PUD flexibility provisions. The PUD with the

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<sup>11</sup> [OP Demographic Data HUB \(dc.gov\)](https://dc.gov/opendata/hub/).

<sup>12</sup> [Housing Equity Report FINAL FINAL 10-11-19.ai \(dc.gov\)](#).

related map amendment to the RA-2 District has the potential to create more residential units than current zoning, increasing the total supply of housing units in the Rock East planning area and easing the pressure on housing costs. As noted in the Comprehensive Plan, rising housing costs disproportionately affect residents of color. 10-A DCMR § 206.4. The Project will significantly increase the number of affordable units on the site to 100 percent. This potential is not available under current zoning.

#### 5. Displacement

The Project has the potential to temporarily displace the current residents in the existing 36-unit Elm Gardens Apartments. Significantly, however, the temporary displacement would be voluntary under the EGTA agreement assigning its TOPA rights to the NHPF, and all tenants would have the option to return to the new building on the site at their current rent plus a two percent (2%) increase. The existing residents will be subject to an annual rent increase equal to the greater of two percent (2%) or a change in the CPI capped at seven percent (7%). In the interim, residents would be relocated to new rental units with assistance from NHPF, and NHPF will pay all costs associated with the relocation. NHPF will work with EGTA to select potential relocation sites comparable to and in close proximity to the current building. NHPF will assist with packaging, moving, and transfer of utilities, and all aspects of the relocation will be handled by a relocation specialist. NHPF's goal is to reduce the impact on the residents as much as possible and cover all costs associated with the relocation, and the tenant will not pay more than their current monthly payment when they are at the relocation site.

#### 6. Transportation

The Property is well-served by public transportation. The Takoma Park Metrorail Station and its associated bus bays are just a three- to four-minute walk away. At least ten bus lines are easily accessible from the Property, including the 52, 54, 62, F2, F4, 12, 14, 16, 17, and 18 bus lines. A Capital Bikeshare station is also located at the Takoma Park Metro Station.

#### 7. Employment

It is anticipated that the proposed Project would support employment opportunities. The site is close to retail and offices located in the Takoma Park commercial area, and the Rock Creek East Area supports large healthcare employment centers, including the Washington Hospital Center, the National Rehabilitation Hospital, Children's National Medical Center, and the VA Medical Center. 10-A DCMR § 2205.1. The Comprehensive Plan projects that the number of jobs in this planning area will increase from 35,141 in 2015 to approximately 45,000 in 2045. The former Walter Reed Army Medical Center, the Washington Hospital Center Complex, and the Armed Forces Retirement Home redevelopment site are anticipated to generate much of the growth, with additional increases at other established business districts. 10-A DCMR § 2206.2.

8. Education

The Property is within the boundaries of Takoma Elementary School, Ida B. Wells Middle School, and Coolidge High School. Future residents would have the opportunity to avail themselves of these public educational facilities. Additionally, the Takoma Park Library at 416 Cedar St., N.W., is just an eight-minute walk from the Property.

9. Recreation

The Property is in close proximity to the Takoma Community Center operated by the District's Department of Parks and Recreation ("DPR"). The Community Center provides a range of services and activities for all age groups, from toddlers to seniors. It offers fitness classes, personal enrichment, and summer camps. It also features an indoor pool, which hosts DPR's annual Black History swim meet each February.<sup>13</sup> Future residents of the Property would be able to enjoy the educational and recreational activities provided by this facility. The Metropolitan Branch Trail, a multi-use trail for bikes and pedestrians, is also just a block away at Piney Branch Road, N.W. Upper Portal Park and Belle Ziegler Park in Montgomery County, Maryland, are likewise a short walking distance from the Property.

10. Environmental

The proposed Project would be subject to the environmental protection controls of the D.C. Green Building Act, standards and regulations of the D.C. Department of Energy and the Environment, including stormwater management controls. It is designed to meet the Enterprise Green Communities Plus and the Department of Energy's Zero Energy Ready Homes standards. Given the proximity to the Takoma Metrorail Station, multiple buses, and the Capital Bikeshare Station, it is anticipated that the demand for and use of automobiles at the site will be reduced, thereby likely resulting in lower carbon emissions.

11. Access to Amenities

The Property is well-served by a full complement of retail and service establishments in the Takoma Park commercial area, including restaurants, coffee shops, drug stores, postal services, gas stations, and the arts. These amenities flow across the District border into Takoma Park, Maryland, as well.

**E. Part 4: Evaluation of the Zoning Action Through a Racial Equity Lens**

The proposed PUD and related map amendment to the RA-2 District will result in positive outcomes under the various zoning evaluation criteria when considered through a racial equity lens, as described in the chart below.

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<sup>13</sup> [Takoma Community Center | dpr \(dc.gov\)](https://www.dpr.dc.gov).

Criteria	Evaluation	Outcome
<p><b>Direct Displacement:</b> <i>Will the zoning action result in displacement of tenants or residents?</i></p>	<p>The proposed zoning action will cause the voluntary and temporary relocation of the existing Elm Gardens tenants to comparable housing in the community, with the right of tenants to return to the new building. The Applicant will assist the tenants during the transition period through a relocation specialist who will arrange for packing, moving, transferring of utilities, and all other aspects of the move, including costs. The tenants will not pay more than their current monthly payments while at the relocation site. Upon return to the new building, tenants would pay their current rent plus a two percent (2%) increase. The annual rent increase for these existing tenants would be the greater of two percent (2%) or a change in the CPI, capped at seven percent (7%).</p>	<p><b>POSITIVE</b></p>
<p><b>Indirect Displacement:</b> <i>What examples of indirect displacement might result from the zoning action?</i></p>	<p>The zoning action is not anticipated to cause any indirect displacement. Instead, the provision of new affordable housing is anticipated to attract racially diverse new residents to the community.</p>	<p><b>POSITIVE</b></p>
<p><b>Housing:</b> <i>Will the action result in changes to market rate housing, affordable housing or replacement housing?</i></p>	<p>Yes, the zoning action would increase the amount of affordable housing by devoting the entire project to households earning between 30-80% of the median family income for the Washington region. While existing, over-income tenants will be welcomed back to the new building, upon their departure, those units would become income-restricted.</p>	<p><b>POSITIVE</b></p>
<p><b>Physical:</b> <i>Will the action result in changes to the physical environment, such as infrastructure improvements, arts and culture, environmental changes, streetscape improvements?</i></p>	<p>The zoning action will allow the replacement of an outdated, environmentally insensitive structure with a new 80-unit affordable apartment building. The building will be environmentally sustainable and designed to Enterprise Green Community standards. The design was approved by the HPRB, which ensures the enhancement of the physical, aesthetic, and environmental quality of the neighborhood. The new apartments will be adjacent to a Metrorail station, thereby allowing a greater number of residents access to public transportation. Finally, the project will include streetscape improvements to widen the sidewalk in front of the project and associated landscape enhancements.</p>	<p><b>POSITIVE</b></p>

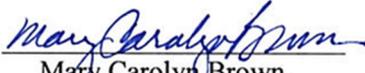
<p><b>Access to Opportunity:</b> <i>Is there a change to access to opportunity with respect to job training/creation, healthcare, or addition of retail/access to new services?</i></p>	<p>The zoning action will increase access to job opportunities due to the building’s adjacency to the Takoma Metrorail Station and bus lines. The quality and quantity of new affordable units will foster great housing security for residents.</p>	<p><b>POSITIVE</b></p>
<p><b>Community:</b> <i>How did community outreach and engagement inform/change the zoning action?</i></p>	<p>Based on the Commission’s concerns with the proposed RA-3 zoning in ZC Case No. 22-33 for the site, and the opposition to the proposed height and density allowed under the RA-3 District, the applicant withdrew that request and refiled the current application for a consolidated PUD and related map amendment to the RA-2 District. The Project has been reduced from a six-story building with 110 units to a four-story building with 80 units, which is well below the permitted height of 60 feet allowed for PUDs in the RA-1 and RA-2 Districts.</p>	<p><b>POSITIVE</b></p>
<p><b>CONCLUSION</b></p>	<p>The proposed zoning action will increase affordable housing in a new replacement building; allow existing residents to return to the building with interim relocation assistance; produce a building that creates improved housing opportunities and housing security; create an historically compatible and environmentally healthy design provide access to transportation and job options due to proximity of public transportation.</p>	<p><b>POSITIVE</b></p>

**VI. CONCLUSION**

The Applicant submits that the application meets the standards of 11-X DCMR Chap. 9 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; follows the land use objectives of the District of Columbia; will enhance the health, welfare, safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a consolidated PUD and related map amendment; provides significant public benefits and project amenities; advances important goals and policies of the District of Columbia and, therefore, should be adopted by the Zoning Commission. Accordingly, the Applicant requests that the Zoning Commission set down for a hearing the application for a consolidated PUD application and related map amendment to the RA-2 District for the Property.

Respectfully submitted,

The Brown Law Firm PLLC

By:   
Mary Carolyn Brown  
Counsel for the Applicant

Date: August 24, 2023